IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP 407 of 2006.

Date of decision June 1, 2006.

Ms. Shivani Tyagi …**Petitioner.**

Versus

State of H.P. & another …**Respondents.**

Coram

Hon'ble Mr. Justice **V.K.Gupta, C.J.**

Hon'ble Mr. Justice **Deepak Gupta, J.**

Whether approved for reporting?

For the petitioners	**Mr. Rajiv Sharma, Senior Advocate, with Mr. Surinder Sharma, Advocate.**
For respondent No. 1	**Mr.M.S.Chandel,Advocate General, with Mr. J.K.Verma, Dy. A.G.**
For respondent No. 2	**Mr.V.D.Khidta, Advocate.**

V.K.Gupta, C.J. (Oral)

CMP 627 of 2006.

Infructuous.

CWP 407 of 2006.

Through the medium of this petition filed under article 226 of the Constitution, the petitioner wants this Court to issue a mandamus to the respondents to create a specific category of candidates for admission in the MBBS course. To be precise, the petitioner's grievance is that whereas in the admissions for the Sessions 2004-05 and 2005-06, apart from the category of NRI candidates, there

Whether Reporters of the Local Papers may be allowed to see the Judgment?

was another category of "NRI sponsored candidates", in the Prospectus issued for the Session 2006-07, the category of "NRI sponsored candidates" has been obliterated.

We are of the considered opinion that in so far as the issue of categorizing the candidates for admissions to educational Institutions, including the Medical Colleges and Dental Colleges is concerned, it is for the State Government as well as the State Institutions, including the Universities to prescribe different categories of candidates as also their respective quotas. Of course, the entire process of categorization of candidates as well as their respective quotas has to be rational as well as linked to equitable basis and there has to be some nexus of actual categorization of candidates with the object sought to be achieved with respect to the creation of categories. It is not for this Court to issue any direction to the respondents in the exercise of this Court's extra-ordinary jurisdiction under Article 226 of the Constitution, to create any category, or any further or additional categories. This Court's jurisdiction of course can always be invoked by aggrieved person(s) if it is ever felt that in the matter of creation of categories or allocation of respective quotas against categories, the State has acted in an arbitrary manner, violating Article 14 of the Constitution of India. Such is not the case presently before us.

Reverting to the specific issue concerning the petitioner's prayer with respect to creation of the category of "NRI sponsored candidates", we do wish to point out and observe that the State has done well in obliterating and scrapping this category from the list of reserved categories as had been in vogue in the above mentioned academic Sessions in the past (for the years 2004-05 and 2005-06). Whereas it is quite understandable that the category of "NRI candidates" has a nexus with an object sought to be achieved, viz. the integration of non-resident Indians living abroad into Indian mainstream and making available to them the facilities in existence in the Country of their origin, no such nexus can be said to be linked with any object sought to be achieved, with respect to a so-called category such as "NRI sponsored candidates" because by its very definition as well as in common parlance, this category, in effect and substance means and includes only such candidates who are actually and ordinarily residing in India (who are not in any case non-resident Indians living abroad) but who would be financially sponsored by non-resident Indians in the matter of their admissions. In effect and substance, creating such a category and granting admissions to the candidates belonging to such category would amount to selling admissions on commercial basis, pure and simple, by practicing patent discrimination against other ordinarily

resident Indians who would be selected only on the basis of merit and who would not be in a position to obtain sponsorships from NRIs, meaning in other words who would not be in a position to arrange huge funds for admissions.

This petition is totally devoid of any merit and is dismissed in limine.

CMP No. 626 of 2006.

Dismissed.

(V.K. Gupta), C.J.

June 1, 2006 **(Deepak Gupta),J.**
(PC).